

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-04-4643.M5

MDR Tracking Number: M5-04-1013-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on December 8, 2003.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the office visits, therapeutic procedures, myofascial release, joint mobilization, physical treatment and work hardening were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that fees were the only fees involved in the medical dispute to be resolved. As the treatment listed above were not found to be medically necessary, reimbursement for dates of service from 02-04-03 to 09-19-03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 2nd day of March 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division
PR/pr

NOTICE OF INDEPENDENT REVIEW DECISION

Date: March 1, 2004

MDR Tracking #: M5-04-1013-01
IRO Certificate #: 5242

_____ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to _____ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

_____ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

It appears the claimant was originally injured on ____ from alleged over exertion when he tried to pull a heavy cart from a truck trailer. It appears that the cart wheels became stuck in a rut or some kind of gap and as the claimant was exerting a force to pull the cart backwards, he suffered alleged low back injury. The claimant underwent quite a bit of chiropractic care and even work hardening in 2002; however, ended up undergoing a lumbar microdiscectomy, laminectomy, foraminotomy and partial facetectomy at L5/S1 on the left on 12/10/02. The claimant has been seeing ____ who performed the surgery and he has undergone several post operative follow up visits with _____. The claimant has undergone an MRI of the lumbar spine as well as a CT/myelogram and even a repeat lumbar MRI was performed with and without contrast after the surgery when the claimant was having ongoing minor complaints. The treating chiropractor, who in this case is _____, has stated that as of 11/7/03 the claimant is undergoing post laminectomy syndrome and has alleged extensive epidural fibrosis from the surgical procedure. It was documented as of 8/13/03 the claimant was performing at the light duty level and he was required by his former employer to perform at the heavy duty level. It appears the claimant was working with _____ as a loader/unloader.

Requested Service(s)

The medical necessity of the outpatient services including office visits, therapeutic procedures, myofascial release, joint mobilization, physical treatment and work hardening from 2/4/03 through 9/19/03.

Decision

I agree with the insurance carrier and find that the services in dispute were not medically necessary.

Rationale/Basis for Decision

After review of the quite voluminous medical records, I have come to the conclusion that there is no evidence of sufficient outcomes assessments to justify the ongoing treatment and especially the treatment that is the subject of the dispute from 2/4/03 through 9/19/03. The only FCE seemed to take place on 8/13/03 and another FCE took place very close to this time period when _____ saw the claimant and felt that further medical treatment was not supported as reasonable or medically necessary. The claimant did see _____ on 8/27/03 and it was felt the claimant was essentially at MMI. At that time the claimant was in his first week of work hardening. Again there have been minimal to no outcomes assessments to show objective progress throughout the

treatment and it should be noted that the claimant saw _____ on 3/31/03 and was essentially released to as needed care. The claimant's pain levels also remained at a 1-2/10 throughout several post operative follow ups with _____ and the claimant complained of no pain when he saw _____ in August 2003. I really saw no evidence of documented change in the claimant's condition from March 2003 through the end of October 2003 to substantiate the immense and exhaustive amount of treatment that was rendered. It was stated that psychological testing was done and the claimant was found to be a candidate for the work hardening program; however, I saw no documentation to support the work hardening program. In other words, documentation was not submitted for review even though it may have been done. I saw no significant evidence of anxiety, depression, or psychological overlay to warrant such a program. It appears the claimant was also not planning on returning to his usual form of employment at the heavy duty level and this would not necessitate a multidisciplinary intensive program. In fact, similar results could have been obtained through a regular physical therapy program with transition into a home based exercise program. The laminectomy and discectomy procedure that was described was not terribly invasive and the usual recovery from this type of injury is within 4-6 months. It is clear the claimant has undergone a substantial amount of physical therapy and the documentation is clear in showing that the claimant's condition has not really changed since February or March 2003. There was no evidence of improvement beyond March 2003 and the claimant's condition obviously reached a stationary level of improvement because no further objective improvement was documented or noted through August 2003 when the claimant was found to be at MMI by _____. The claimant did not want a second surgery and it was clear that he had gotten to a point where further improvement would not be expected. The claimant also underwent manipulation on 2/4/03 and 2/12/03 and this is part of the disputed services. These services would not be considered reasonable or medically necessary in that manipulation was obviously already proven to be non-effective for this particular situation and would not be warranted in the post surgical situation. I really saw no change in the claimant's pain levels. The work hardening notations revealed no change in the claimant's pain over 8 weeks. There was no FCE provided except for the initial FCE of 8/13/03 to show objective progress to warrant 8 weeks of work hardening. Much of the remaining services were office visits prior to the work hardening program which began on 8/25/03. These office visits would not be considered medically necessary and did not contribute to or enhance the treatment plan or prognosis of the claimant as it was clear the claimant had been at a stationary level of improvement since March 2003. It is my opinion the work hardening program was not supported as medically necessary by the objective documentation provided for review. It should be noted that the highly evidence based Official Disability Guidelines state that following a laminectomy procedure the average claimant returns to clerical type work at 28 days and manual type work within 70 days. It is possible that when a claimant is required to function at the heavy manual duty level he may not return to this type of employment; however, it was clear the claimant could have maintained manual duty work as of at least March or April 2003. I will also state that _____ stated that on 3/31/03 the claimant had a near resolution of his pre-operative symptomatology and that he was released to a home program as well as an as needed status. Further post operative rehabilitation was recommended; however, the specifics of this was not documented and the record has been unclear as to what further rehabilitation _____ was recommending. At any rate, the chiropractic care has been extensive and is way beyond the recommendations of the highly evidence based Official Disability Guidelines as mentioned above.